

Decision **DRAFT DECISION OF ALJ VIETH (Mailed 5/23/2005)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on policies and practices for the Commission's transmission assessment process.

Rulemaking 04-01-026
(Filed January 22, 2004)

OPINION CLOSING PROCEEDING**Summary**

We close this rulemaking, since it remains premature to amend General Order (GO) 131-D. The necessary predicate, a “common economic methodology” for assessing the need for new transmission infrastructure, is under review in a related proceeding. The issues are complex and we want to ensure that the economic methodology developed in that proceeding is robust. Therefore, to avoid conflict with the statutory timelines for resolution of quasi-legislative proceedings such as this one, we close this rulemaking. We will open a new rulemaking in the future, as necessary.

Background and Discussion

The Commission opened this rulemaking in January 2004 and at that time, contemplated amendment of GO 131-D within eight months. GO 131-D consists of rules governing the planning and construction of electric generation and transmission facilities in California. The Order Instituting Rulemaking (OIR) focused on the general order as a practical means to streamline transmission planning by eliminating duplication between processes at the Commission and

the California Independent System Operator (CAISO). The OIR assumed that a necessary predicate, the CAISO's economic methodology for assessing transmission need (i.e. the TEAM methodology) would be reviewed in a parallel proceeding at the Commission, Investigation 00-11-001, in time for incorporation into this rulemaking.

The preliminary scoping memo in the OIR set an ambitious schedule. The schedule called for a filing by the CAISO on reliability need, followed by comments and reply comments, and then an Assigned Commissioner's Ruling (ACR) on next steps. The complexity of the issues caused parties, quite reasonably, to ask the assigned administrative law judge to extend the comment timeline. The comments revealed significant divisions among the parties not only as to solutions, but also as to the underlying problems. The October 15, 2004 ACR recognized the lack of accord and called for a public forum on transmission streamlining within the context of electric resource planning. Shortly thereafter, informal discussions about resource planning reform were initiated among staff of the Commission, the California Energy Commission, and the CAISO. These discussions are still ongoing.

Review of the TEAM methodology on a theoretical basis has proved extremely contentious and has moved very slowly. With the April 11, 2005 filing by the Southern California Edison Company of Application 05-04-015, which seeks authority to construct the proposed 500 kilovolt Devers-Palo Verde No. 2 transmission line, the TEAM methodology can be reviewed in practical application. However, that review cannot be folded into this rulemaking without a significant extension of the statutory timeline that applies

to resolution of quasi-legislative proceedings like this one.¹ Therefore, we conclude the most prudent course is to close this rulemaking. As evaluation of the TEAM methodology moves forward, we will continue to reevaluate the need for a new rulemaking or other appropriate proceeding.

Comments on Draft Decision

The draft decision in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Commission's Rules of Practice and Procedure. The Commission's Office of Ratepayer Advocates (ORA) filed comments on June 8, 2005. The CAISO, The Utility Reform Network (TURN), and Pacific Gas and Electric Company (PG&E) all filed comments on June 13. ORA filed reply comments on June 18 and CAISO, on June 20.

The initial comments of ORA, TURN and the CAISO all support the draft decision, though each would have us modify the text somewhat to support that party's policy views. Only PG&E argues that, instead of closing this proceeding, we should amend GO 131-D to defer to the CAISO's reliability determinations. The CAISO, itself, recognizes that "it is reasonable not to piece-meal any proposed amendment to [GO] 31-D by separately evaluating the reliability and economic criteria." (CAISO comments, p. 2.) In its reply comments, CAISO suggests it may be possible to harmonize the divergent views of PG&E, on the one hand, and ORA and TURN, on the other, should the Commission desire to amend GO 131-D now to require explicit deferral to CAISO on reliability need

¹ Pub. Util. Code § 1701.5 requires the Commission to resolve a quasi-legislative proceeding within 18 months of the date of issuance of the scoping memo, unless the scoping memo specifies a later resolution date. The Commission may issue an extension order of no more than 60 days beyond the resolution date in scoping memo. The scoping memo for this rulemaking is the preliminary scoping memo in the OIR.

determinations. Focusing on the Certificate of Public Convenience and Necessity process, CAISO states that the “key” is clear differentiation of the use of the term “need” whether as a reference to (1) a CAISO assessment that a given transmission project will provide a viable engineering solution to overcome a likely, future reliability criteria violation, or (2) a Commission assessment that “transmission upgrades constitute the optimal solution.” (CAISO comments, Section I.) CAISO recognizes, however, that “[a]bsent answers to questions concerning the overall resource planning process, the Commission may believe that action on this OIR is premature.” (*Ibid.*)

While we appreciate CAISO’s effort to advance a consensus, we think more work remains to be done. For procedural reasons and not substantive reasons, we choose not to do this work in this proceeding. Thus, we make no changes to the draft decision, which merely closes this rulemaking. The scope and purpose of future proceedings will be discussed in those proceedings, not here. We remain hopeful about reaching consensus in future proceedings on how to better integrate determinations of “need” by the CAISO and by this Commission.

Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Jean Vieth is the assigned Administrative Law Judge in this proceeding.

Finding of Fact

Review of the TEAM methodology will not be completed in time to consider in this rulemaking, without a significant extension of the resolution timeline provided for under Pub. Util. Code § 1701.5.

Conclusion of Law

This rulemaking should be closed, effective immediately.

O R D E R

IT IS ORDERED that Rulemaking 04-01-026 is closed.

This order is effective today.

Dated _____, at San Francisco, California.